

REMARKS / ARGUMENTS

Claim 17 has been amended. No new claims have been added. Accordingly, claims 8-10, 12-15 and 17 are pending in this application.

Claims Rejections Under 35 U.S.C. §112

Claim 17 stands rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling since the claim as presently drafted does not positively claim the liquid as being required to be present in the container. Claim 17 has been amended as suggested by the Examiner to positively claim the liquid in the container.

Double Patenting

Claim 17 stands rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,737,021. While the Office Action on page 4 refers to claim 1 of the present application as being rejected on the ground of double patenting, the Examiner clarified the Action over the telephone to indicate that claim 17 stands rejected on the grounds of double patenting.

A Terminal Disclaimer is being filed herewith to overcome this rejection.

Allowable Subject Matter

Applicants appreciate the indicated allowability of claims 8-10, 12-15 and 17 if rewritten or amended to overcome the rejections under 35 U.S.C. 112 and the double patenting rejection.

Patentability of the Claims

In view of the amendment to claim 17 and the submission of the Terminal Disclaimer, it is submitted that claims 8-10, 12-15 and 17 are patentable.

Conclusion

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly & Malur, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. NIP-217-02).

Respectfully submitted,

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